

REMARKS

Applicants respectfully request further examination and reconsideration in view of the above amendments. Claims 1, 4 and 6-15 remain pending in the case. Claims 1-17, 19 and 20 are rejected. Claims 2, 3, 5, 16, 17, 19 and 20 are cancelled herein without prejudice. Claims 1, 4, 6-9, 11 and 15 are amended herein. No new matter has been added. Support for the claim amendments can be found in the instant specification, at least at, pages 10 and 11.

EXAMINER INTERVIEW

On February 18, 2009, the Applicants' representative, Registered Patent Attorney Matthew Blecher, and Examiner Jarrett, via a telephone call, discussed proposed claim amendments at the suggestion of Examiner Jarrett. Examiner Jarrett indicated that the instant application may disclose patentable subject matter that was not recited in the claims. Examiner Jarrett suggested claim amendments that overcome the asserted art and might place the application and claims in condition for allowance. On March 2, 2009, the Applicants' representative communicated proposed claim amendments the Examiner Jarrett for review. On March 3, 2009, via email, Examiner Jarrett indicated that the proposed claim amendments were in line with the discussion of February 18, 2009. Applicants wish to thank Examiner Jarrett for participating in an Examiner interview and for his assistance in this matter.

35 U.S.C. §101

The Office Action mailed November 10, 2008, hereinafter referred to as the "instant Office Action," states that Claims 1-8, 16, 17, 19 and 20 are rejected under 35

U.S.C. §101 as it is asserted that Claims 1-8, 16, 17, 19 and 20 are not directed toward statutory subject matter. Claims 2, 3, 5, 16, 17, 19 and 20 are cancelled herein without prejudice. Therefore, a discussion of the rejection of Claims 2, 3, 5, 16, 17, 19 and 20 under 35 U.S.C. §101 is moot at this time.

Applicants respectfully submit that Claims 1, 4, 6 and 7 are directed to patentable subject matter. Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A forecasting process comprising:
running multiple sessions of an information market including an artificial market in which financial instruments are utilized, wherein said financial instruments are traded by participants in said information market, wherein said information market is designed to elicit participant characteristics of participants;
extracting said participant characteristics through an analysis of results of trading of said financial instruments by correlating observed behavior to accepted characteristic tendencies, wherein said participant characteristics include participant risk inclination and participant ability to interpret information, wherein said extracting is performed by a computer system;
generating a predictive aggregation formula with adjustments for said participant characteristics, wherein said predictive aggregation formula aggregates predictive information related to said multiple sessions of said information market wherein said adjustments include individual participant predictions with exponential factoring for characteristics of said individual participants and said information market as a whole, wherein said generating a predictive aggregation formula with adjustments for said participant characteristics is performed by said computer system;
performing a predictive query process in subsequent to said running multiple sessions of said information market, said predictive query process including posing a predictive query to said participants and gathering results of said predictive query, said predictive query about a probability of a future outcome occurrence associated with an uncertain situation;
aggregating results of said predictive query process with adjustments for said predictive aggregation formula comprising said

participant characteristics to produce an aggregated probability projection associated with said uncertain situation; and
generating a forecast for said uncertain event based on said aggregated probability projection, wherein said generating said forecast for said uncertain event is performed by said computer system.

Specifically, Claim 1 is amended herein to recite “wherein said extracting is performed by a computer system,” “wherein said generating a predictive aggregation formula with adjustments for said participant characteristics is performed by said computer system,” and “wherein said generating said forecast for said uncertain event is performed by said computer system” (emphasis added).

Therefore, Applicants respectfully submit that the method of Claim 1 is tied to a particular machine, and that Claim 1 is thus directed toward patentable subject matter, and thus overcomes the rejection under 35 U.S.C. §101. Therefore, Applicants respectfully submit that Claims 4, 6 and 7 that are dependent on independent Claim 1 are directed toward patentable subject matter, and thus overcome the rejection under 35 U.S.C. §101.

103(a) Rejections - Claims 1, 2, 4-7, 9-11 and 13-17

The instant Office Action states that Claims 1, 2, 4-7, 9-11 and 13-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over “The Power of Play: Efficiency and Forecast Accuracy in Web Market Games” by Pennock et al., hereinafter referred to as “Pennock” in view of U.S. Patent No. 7,155,510 by Kaplan. Claims 2, 5, 16 and 17 are cancelled herein without prejudice. Therefore, a discussion of the rejection of Claims 2, 5, 16 and 17 under 35 U.S.C. §103(a) is moot at this time. Applicants have

reviewed Pennock and Kaplan and respectfully submit that the embodiments recited in Claims 1, 4, 6, 7, 9-11 and 13-15 are patentable over Pennock and Kaplan, alone or in combination, for at least the following rationale.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A forecasting process comprising:

running multiple sessions of an information market including an artificial market in which financial instruments are utilized, wherein said financial instruments are traded by participants in said information market, wherein said information market is designed to elicit participant characteristics of participants;

extracting said participant characteristics through an analysis of results of trading of said financial instruments by correlating observed behavior to accepted characteristic tendencies, wherein said participant characteristics include participant risk inclination and participant ability to interpret information, wherein said extracting is performed by a computer system;

generating a predictive aggregation formula with adjustments for said participant characteristics, wherein said predictive aggregation formula aggregates predictive information related to said multiple sessions of said information market wherein said adjustments include individual participant predictions with exponential factoring for characteristics of said individual participants and said information market as a whole, wherein said generating a predictive aggregation formula with adjustments for said participant characteristics is performed by said computer system;

performing a predictive query process in subsequent to said running multiple sessions of said information market, said predictive query process including posing a predictive query to said participants and gathering results of said predictive query, said predictive query about a probability of a future outcome occurrence associated with an uncertain situation;

aggregating results of said predictive query process with adjustments for said predictive aggregation formula comprising said participant characteristics to produce an aggregated probability projection associated with said uncertain situation; and

generating a forecast for said uncertain event based on said aggregated probability projection, wherein said generating said forecast for said uncertain event is performed by said computer system.

Independent Claim 9 recites a similar embodiment. Claims 4, 6 and 7 that depend from independent Claim 1 and Claims 10, 11 and 13-15 that depend from independent Claim 9 also include these embodiments.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)). Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Applicants respectfully submit that Pennock and Kaplan, as a whole, do not teach, describe or suggest the claimed embodiments. As presented above, Applicants understand the Examiner to agree that the claimed embodiments, as recited in amended independent Claims 1 and 9, are patentable over the combination of Pennock and Kaplan.

Accordingly, Applicants respectfully submit that the basis for rejecting independent Claims 1 and 9 under 35 U.S.C. § 103(a) is traversed and that, as a result, Claims 1 and 9 are in condition for allowance. Furthermore, Applicants respectfully submit that the basis for rejecting Claims 4, 6 and 7 that depend from independent Claim 1 and Claims 10, 11 and 13-15 that depend from independent Claim 9 under 35 U.S.C. § 103(a) is also traversed as these claims depend from allowable base claims, and consequently Claims 4, 6, 7, 10, 11 and 13-15 are also in condition for allowance.

103(a) Rejections – Claim 3

The instant Office Action states that Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Pennock in view of Kaplan, further in view of “The Recovery of Risk Preferences from Actual Choices” by Wolf et al. Claim 3 is cancelled herein without prejudice. Therefore, a discussion of the rejection of Claim 3 under 35 U.S.C. §103(a) is moot at this time.

103(a) Rejections – Claims 8 and 19

The instant Office Action states that Claims 8 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pennock in view of Kaplan, further in view of “Maximum Entropy Aggregation of Expert Predictions” by Myung et al. Claim 19 is cancelled herein without prejudice. Therefore, a discussion of the rejection of Claim 19 under 35 U.S.C. §103(a) is moot at this time. Applicants have reviewed Pennock, Kaplan and Myung and respectfully submit that the embodiment recited in Claim 8 is patentable over Pennock, Kaplan and Myung, alone or in combination, for at least the following rationale.

Claim 8 is dependent on independent Claim 1 and includes the recitations of independent Claim 1. Hence, by demonstrating that independent Claim 1 is patentable over Pennock, Kaplan and Myung, it is also demonstrated that Pennock, Kaplan and Myung do not show or suggest the embodiment of Claim 8.

As presented above, Applicants respectfully submit that Pennock and Kaplan, as a whole, do not teach, describe or suggest the claimed embodiment as recited in independent Claim 1. In particular, Applicants understand the Examiner to agree that the claimed embodiments, as recited in amended independent Claim 1, is patentable over the combination of Pennock and Kaplan.

Furthermore, Applicants respectfully submit that Myung does not overcome the shortcomings of Pennock and Kaplan. In particular, Applicants understand the Examiner to agree that the claimed embodiments, as recited in amended independent Claim 1, is patentable over the combination of Pennock, Kaplan and Myung.

Accordingly, Applicants respectfully submit that the basis for rejecting independent Claim 1 under 35 U.S.C. § 103(a) is traversed and that, as a result, Claim 1 is in condition for allowance. Furthermore, Applicants respectfully submit that the basis for rejecting Claim 8 that depends from independent Claim 1 under 35 U.S.C. § 103(a) is also traversed as this claim depends from an allowable base claim, and consequently Claim 8 is also in condition for allowance.

103(a) Rejections – Claim 12

The instant Office Action states that Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Pennock in view of Kaplan, further in view of “Unreasonable Rationality?” by Clyman. Applicants have reviewed Pennock, Kaplan and Clyman and respectfully submit that the embodiment recited in Claim 12 is patentable over Pennock, Kaplan and Clyman, alone or in combination, for at least the following rationale.

Claim 12 is dependent on independent Claim 9 and includes the recitations of independent Claim 9. Hence, by demonstrating that independent Claim 9 is patentable over Pennock, Kaplan and Clyman, it is also demonstrated that Pennock, Kaplan and Clyman do not show or suggest the embodiment of Claim 12.

As presented above, Applicants respectfully submit that Pennock and Kaplan, as a whole, do not teach, describe or suggest the claimed embodiment as recited in independent Claim 9. In particular, Applicants understand the Examiner to agree that the claimed embodiments, as recited in amended independent Claim 9, is patentable over the combination of Pennock and Kaplan.

Furthermore, Applicants respectfully submit that Clyman does not overcome the shortcomings of Pennock and Kaplan. In particular, Applicants understand the Examiner to agree that the claimed embodiments, as recited in amended independent Claim 9, is patentable over the combination of Pennock, Kaplan and Clyman.

Accordingly, Applicants respectfully submit that the basis for rejecting independent Claim 9 under 35 U.S.C. § 103(a) is traversed and that, as a result, Claim 9 is in condition for allowance. Furthermore, Applicants respectfully submit that the basis for rejecting Claim 12 that depends from independent Claim 9 under 35 U.S.C. § 103(a) is also traversed as this claim depends from an allowable base claim, and consequently Claim 12 is also in condition for allowance.

103(a) Rejections – Claim 20

The instant Office Action states that Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Pennock in view of Kaplan, further in view of “Aggregating Expert Predictions in a Networked Environment” by Major et al. Claim 20 is cancelled herein without prejudice. Therefore, a discussion of the rejection of Claim 20 under 35 U.S.C. §103(a) is moot at this time.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims. Based on the arguments presented above, Applicants respectfully assert that Claims 1, 4 and 6-15 overcome the rejections of record and, therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER BLECHER L.L.P.

Dated: March 10, 2009

/John P. Wagner, Jr./
John P. Wagner, Jr.
Registration No. 35,398

Wagner Blecher LLP
123 Westridge Dr.
Watsonville, CA 95076
(408) 377-0500